

**Baker & Hostetler LLP**

45 Rockefeller Plaza

New York, NY 10111

Telephone: (212) 589-4200

Facsimile: (212) 589-4201

David J. Sheehan

Email: dsheehan@bakerlaw.com

Nicholas J. Cremona

Email: ncremona@bakerlaw.com

Heather J. McDonald

Email: hmcDonald@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC  
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively  
Consolidated SIPA Liquidation of Bernard L. Madoff  
Investment Securities LLC and Bernard L. Madoff,

Plaintiff,

v.

TRUST UNDER DEED OF SUZANNE R. MAY  
DATED NOVEMBER 23, 1994, INDIVIDUALLY

No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-05231(SMB)

and as BENEFICIARY of ESTATE OF SUZANNE R. MAY;

ESTATE OF SUZANNE R. MAY, as SUCCESSOR of SUZANNE R. MAY, in her capacities as CREATOR and TRUSTEE of TRUST UNDER DEED OF SUZANNE R. MAY DATED NOVEMBER 23, 1994 and INDIVIDUALLY as BENEFICIARY of TRUST UNDER DEED OF SUZANNE R. MAY DATED NOVEMBER 23, 1994;

ESTATE OF ROBERT E. MAY as SUCCESSOR of ROBERT E. MAY, in his capacity as CO-TRUSTEE of TRUST UNDER DEED OF SUZANNE R. MAY DATED NOVEMBER 23, 1994, and INDIVIDUALLY as BENEFICIARY OF NTC & CO. LLP, TRUST UNDER DEED OF SUZANNE R. MAY DATED NOVEMBER 23, 1994 and ESTATE OF SUZANNE R. MAY;

JEFFREY A. MAY, in his capacity as CO-TRUSTEE of TRUST UNDER DEED OF SUZANNE R. MAY DATE NOVEMBER 23, 1994, EXECUTOR OF ESTATE OF ROBERT E. MAY and INDIVIDUALLY as BENEFICIARY of ESTATE OF SUZANNE R. MAY;

CHERYL M. COLEMAN, INDIVIDUALLY as BENEFICIARY of ESTATE OF SUZANNE R. MAY; and

RICHARD A. MAY, INDIVIDUALLY as BENEFICIARY of ESTATE OF SUZANNE R. MAY,

Defendants.

**STIPULATION AND ORDER  
REFERRING MATTER TO DISCOVERY ARBITRATOR**

**WHEREAS**, on December 6, 2010, Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et. seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, filed the above-captioned avoidance action;

**WHEREAS** on October 4, 2016, Judge Bernstein entered an Order Appointing a Discovery Arbitrator Pursuant to Bankruptcy Rule 9019(c) and General Order M-390 (the “October 4, 2016 Order”) appointing the Honorable Frank Maas (ret.), c/o JAMS, Inc. as Discovery Arbitrator (the “Discovery Arbitrator”) to resolve discovery disputes that may arise and which have been specifically referred to him by the Court with consent of the parties to the dispute.

**WHEREAS**, on November 1, 2016, Plaintiff served discovery requests upon each Defendant, including, Requests for Admission, Interrogatories, and Requests for Production of Documents and Things (collectively, the “Discovery Requests”);

**WHEREAS**, Plaintiff extended the time for Defendants to respond to the Discovery Requests to January 31, 2017;

**WHEREAS**, as of the date of the instant Stipulation and Order, Defendants have not responded to the Discovery Requests;

**NOW, THEREFORE, THE PARTIES TO THIS STIPULATION AGREE AND STIPULATE AS FOLLOWS:**

1. The Parties agree that any and all dispute regarding the Discovery Requests shall be resolved by the Discovery Arbitrator consistent with the procedures outlined in the October 4, 2016 Order.

2. The Parties agree that within three days of entry of this Stipulation, the Trustee will transmit via email a letter summarizing the dispute of no more than three (3) pages, excluding exhibits, to the Discovery Arbitrator, as contemplated in paragraph 7 of the October 4, 2016 Order.

3. The Parties agree that within ten days of entry of this Stipulation, Defendants will transmit via email their letter response not to exceed three (3) pages, excluding exhibits, to the Discovery Arbitrator, as contemplated in paragraph 8 of the October 4, 2016 Order.

4. The Parties agree that the Discovery Arbitrator shall thereafter establish procedures for resolution of the dispute, as contemplated in paragraph 8 of the October 4, 2016 Order.

5. Except as expressly set forth herein, the parties to this Stipulation reserve all rights and defenses they may have.

**ORDERED**, that this Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.

*[The remainder of this page intentionally left blank]*

Dated: March 22, 2017  
New York, New York

**BAKER & HOSTETLER LLP**

By: /s/ Heather J. McDonald  
45 Rockefeller Plaza  
New York, New York 10111  
Telephone: 212.589.4200  
Facsimile: 212.589.4201  
David J. Sheehan  
Email: dsheehan@bakerlaw.com  
Nicholas J. Cremona  
Email: ncremona@bakerlaw.com  
Heather J. McDonald  
Email: hmcDonald@bakerlaw.com

*Attorneys for Plaintiff Irving H. Picard,  
Trustee for the Liquidation of Bernard L.  
Madoff Investment Securities LLC and the  
Estate of Bernard L. Madoff*

**BERNFELD, DEMATTEO & BERNFELD  
LLP**

By: /s/ Jeffrey L. Bernfeld  
600 Third Avenue  
New York, New York 10016  
Telephone: 212.661.1661  
Facsimile: 212.557.9610  
David B. Bernfeld  
Email: davidbernfeld@bernfeld-dematteo.com  
Jeffrey L. Bernfeld  
Email: jeffreybernfeld@bernfeld-  
dematteo.com

*Attorneys for Defendants*

So Ordered this 24<sup>th</sup> day of March, 2017.

/s/ STUART M. BERNSTEIN  
HONORABLE STUART BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE